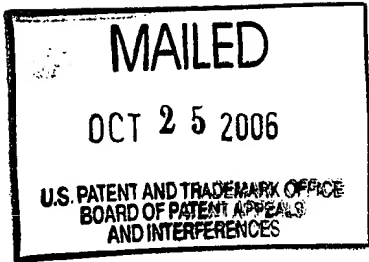


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte GERALD R. CRABTREE,
ISABELLA GRAEF and FENG CHEN

Application 09/960,708

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on October 18, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matters requiring attention prior to docketing are identified below:

An examination of the Image File Wrapper (IFW) reveals that an Examiner's Answer was mailed July 12, 2006.

Section § 1207.02 of the Manual of Patent Examining Procedure (MPEP) (8th Ed., Rev. 3, August 2005) states:

Requirements for Examiner's Answer

The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

....

(8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

While the Examiner's Answer lists "Bolontrade et al. [Carcinogeneses Vol. 19(12):2107-2133, 1998] cited in applicant[']s IDS filed 1/16/03," on page 2 under the caption "(8) Evidence Relied Upon," the claim rejections are listed as follows:

Claims 8-11, 15-18, 35, 37, 39, 40, and 44 remain rejected under 35 U.S.C. 102(b) as being anticipated by Jiang et al [Carcinogenesis Vol. 14(1):67-71, 1993] [page 3]; and

Claims 36-44, 46 and 47 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Jiang et al as applied to claims 8-11, 15-18, 35, 37-40 and 45-47 above, and further in view of Flanagan et al. [page 4].

The Examiner's Answer is deficient because it does not include Jiang and Flanagan articles. Correction is required.

In addition, an Information Disclosure Statement (IDS) was filed on January 16, 2003. It is not apparent from the record whether the examiner considered the statement submitted or notified appellants regarding why their submission did not meet the criteria set forth in 37 CFR §§ 1.97 and 1.98. A communication notifying appellants of the Primary Examiner's decision is required.

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) for submission of a revised Examiner's Answer which corrects the "Evidence Relied Upon" section;
- 2) for consideration of the IDS filed January 16, 2003, and written notification to appellants regarding the Primary Examiner's decision; and
- 3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: G. P. Edgar for Dale Shaw
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DMS/psb

Application 09/960,708

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